

Board of Judicial Conduct
Created by Section 17-5-201, *Tennessee Code Annotated*
(Sunset termination June 30, 2014)

1. A brief introduction to the board including information about its purpose, statutory duties, and staff.

The Board of Judicial Conduct was established pursuant to Tennessee Code Annotated Title 17, Chapter 5. The purpose and statutory duties of the Board of Judicial Conduct are expressly stated in Tenn. Code Ann. § 17-5-101, which states:

It is expressly declared to be the legislative intent in the enactment of this chapter to:

- (1) Provide an orderly and efficient method for making inquiry into:
 - (A) The physical, mental and moral fitness of any Tennessee judge;
 - (B) The judge's manner of performance of duty;
 - (C) The judge's commission of any act calculated to reflect unfavorably upon the judiciary of the state or bring the judiciary into disrepute or that may adversely affect the administration of justice in the state; or
 - (D) The conduct of candidates for judicial office;
- (2) Provide a process by which appropriate sanctions may be imposed; and
- (3) Implement Tenn. Const. art. VI, § 6 by providing a procedure for the removal of judges.

Tenn. Code Ann. § 17-5-101.

The staff of the Board of Judicial Conduct (Board) is led by Disciplinary Counsel, who is appointed pursuant to Tenn. Code Ann. § 17-5-3019(d). The Board is also staffed by one part-time Assistant Disciplinary Counsel and one part-time Investigator who are employed by the Disciplinary Counsel pursuant to Tenn. Code Ann. § 17-5-201(d) with the approval of the Board.

2. Provide a list of current members of the board and describe how membership complies with Section 17-5-201(a), *Tennessee Code Annotated*. Who appoints members? Are there any vacancies on the board? If so, what steps have been taken to fill the vacancies?

The Board consists of 16 members. A membership list is attached as Exhibit A. The members are appointed pursuant to Tenn. Code Ann. § 17-5-201(a)(1) – (6).

This section establishes appointment as follows:

- (1) Any combination of three (3) judges from the court of appeals and court of criminal appeals to be appointed by the supreme court of Tennessee;
- (2) One (1) trial judge from each grand division to be appointed by the supreme court of Tennessee;
- (3) One (1) practicing attorney from each grand division to be appointed by the board of governors of the Tennessee Bar Association;
- (4) Three (3) public members who are not judges, retired judges, nor licensed attorneys of the state, one (1) to be appointed by the speaker of the senate, one (1) to be appointed by the speaker of the house of representatives, and one (1) to be appointed by the governor;
- (5) One (1) general sessions or juvenile court judge licensed to practice law in this state from each grand division to be appointed by the Supreme Court. In any event, there shall always be at least one (1) appointee who currently and regularly exercises juvenile court jurisdiction; and
- (6) One (1) municipal court judge licensed to practice law in this state to be appointed by the Supreme Court.

There are currently no vacancies on the Board.

3. Who has the board chosen as the chair and how has the chair divided the board into a hearing panel and an investigative panel as provided for in Section 17-5-201(d), *Tennessee Code Annotated*?

The current Board Chair is Judge Chris Craft, a Criminal Court Judge from Shelby County, Tennessee. The Board Chair has named 10 investigative panels, each consisting of three members. Each investigative panel consists of at least one layperson or attorney member. All investigative panels are composed such that at least one grand division of the state does not have a member on the panel. Hearing panels are made up of members who did not sit on the investigative panel pursuant to Tenn. Code Ann. § 17-5-308(b).

4. How many times did the board sit since the board's inception?

The Board has physically met together as a group three times since its inception. However, its members meet almost daily through phone calls and e-mail while serving on investigative and hearing panels dealing with the various complaints filed.

5. What were the board's revenues (by source) and expenditures (by object) for fiscal year 2012 and to date for 2013? Does the board carry a fund balance and, if so, what is the total of that fund balance? If expenditures exceeded revenues, and the board does not carry a fund balance, what was the source of the revenue for the excess expenditures?

See exhibit B.

- 6. Has the board adopted rules regulating the practice and procedure before the board as authorized at Section 17-5-203, *Tennessee Code Annotated*?**

Yes. The rules are attached as exhibit C.

- 7. Have any members of the board elected to recuse or abstain in any matters since the board's inception? Were temporary replacements designated in those cases as authorized in Section 17-5-206, *Tennessee Code Annotated*?**

Yes. Replacements were designated as authorized.

- 8. Has the board adopted by rule a formal records retention policy as directed at Section 17-5-207(e), *Tennessee Code Annotated*?**

Yes. See attached Rule 10 on page 8 of Exhibit C.

- 9. Has the board filed monthly and quarterly reports as required at Section 17-5-207(a), (b), (c) and (d), *Tennessee Code Annotated*? If so, please attach the latest report containing cumulative data as directed in subsection (c).**

Yes. They are also posted on our web site for the public each month at <http://www.tncourts.gov/court-judiciary>. The latest report, also found on that website, is attached as exhibit D.

- 10. Please attach copies of any reports filed with the speakers as required by Section 17-5-208, *Tennessee Code Annotated*.**

See exhibit E.

- 11. Has the board appointed disciplinary counsel as provided for in Section 17-5-301, *Tennessee Code Annotated*?**

Yes.

- 12. How many complaints against judges has the board received since the board's inception? How many resulted in sanctions? How many were dealt with through private reprimand or private censure? How many by deferred discipline agreement? How many by more severe sanction, listing the number and types of sanctions imposed?**

See exhibit D.

13. Since the board's inception, how many complaints received fell under each of the offenses listed in Section 17-5-302, *Tennessee Code Annotated*?

See exhibit D.

14. Since the board's inception, has the board, either on its own motion or pursuant to complaint, dealt with any cases involving judicial disability as authorized in Section 17-5-303, *Tennessee Code Annotated*?

The Board has dealt with four cases in which disability was alleged. None of them resulted in adverse action by the Board.

15. Since the board's inception, how many, if any, complaints have been dismissed as frivolous or unfounded (Section 17-5-305) and been disposed of by trial (Section 17-5-309? How many actions of the board have been appealed to the Supreme Court (Section 17-5-310)?

The Board has not treated any complaints as so trivial or groundless so as to destroy records. There have been no appeals to the Supreme Court in any of the Board's actions.

16. Since the board's inception, how many cases, if any, have been transmitted to the General Assembly for final action as provided for in Section 17-5-311, *Tennessee Code Annotated*?

No cases have been transmitted to the General assembly under this section.

17. Describe any items related to the board that require legislative attention and your proposed legislative changes.

None at this time.

18. Should the board be continued? To what extent and in what ways would the absence of the board affect the public health, safety, and welfare?

The Board of Judicial Conduct should be continued. The Board provides an avenue for public complaints about the judiciary and the means to resolve those complaints without expensive hearings and litigation. It is necessary to ensure that the public has a means by which a complainant can report what he/she perceives as unethical conduct and to provide the means to institute the investigation and discipline of judges who violate the Code of Judicial Conduct, Rules of Professional Responsibility to the extent applicable, or develop a disability. The Board is also needed to deal with any other matter that interferes with the public's perception of the impartiality and fairness of the judicial system. The Board also serves as a deterrent to judicial misconduct both by the threat of sanction and by the Board's efforts to educate and inform the judiciary of potential problems. It also provides an efficient

and inexpensive way to purge the system of judges who are becoming disabled or who are exhibiting unethical behavior by offering them the option of resignation rather than public discipline, the filing of formal charges, a public and expensive trial and costly and lengthy removal hearings in the legislature. The Board also acts as an avenue for initiation of any needed criminal investigations, and pursuant to 17-5-301(e)(5) may enlist the aid of the District Attorney or the Tennessee Bureau of Investigation if it feels a crime may have been committed. The Board is also the only means of immediate suspension of a judge, upon the return of an indictment or the filing of an information charging that judge with a felony. Without the Board, there would be no way to ensure the public is protected pending resolution of the criminal charges, impeachment or a trial and legislative removal hearing.

19. Please provide a breakdown of current board staff by title, ethnicity, and gender.

Disciplinary Counsel – Caucasian male
Assistant Disciplinary Counsel – Caucasian male
Investigator – Caucasian male

20. Please list all board contracts, detailing each contractor, the services provided, the amount of the contract, and the ethnicity of the contractor/business owner.

James R. Bierbrodt - Investigator for The Court of the Judiciary
\$ 20,000.00 – Caucasian male
Timothy DiScenza - Chief Disciplinary Counsel
\$ 145,000 .00– Caucasian male
Patrick McHale - Assistant Disciplinary Counsel
\$ 85,000.00 – Caucasian male

Board of Judicial Conduct

T.C.A. § 17-5-201

Chair: Judge Chris Craft

Vice Chair: Judge Timothy Easter

Secretary: Tom Lawless, Esq.

General Assembly Liaison: Judge Jeffrey Bivins

Judge Jeffrey S. Bivins

Tennessee Court of Criminal Appeals
Supreme Court Bldg.
401 Seventh Avenue North, Ste. 221
Nashville, TN 37219

Phone: (615) 532-7945

Fax: (615) 741-9880

Term: 07/01/12 – 06/30/15 (1)

Appointed by: Speaker of House

(Current/Former COA or CCA Judge from list of six recommended by TJC)

Miles Burdine

President & CEO
Kingsport Area Chamber of Commerce
400 Clinchfield Street
Kingsport, TN 37660

Phone: (423) 392-8807

Fax: (423) 392-8834

Term: 07/01/12 – 06/30/15 (1)

Appointed by: Speaker of the Senate

(Public Member)

Judge Chris Craft

Criminal Court Judge
30th Judicial District
Shelby County Justice Complex
201 Poplar Avenue, Suite 519
Memphis, TN 38103

Phone: (901) 222-3287

Fax: (901) 222-3221

Term: 07/01/12 – 06/30/15 (1)

Appointed by: TN Jud Conf

(Current/Former Trial Judge – West)

Judge Angelita Blackshear Dalton

General Sessions Court
20th Judicial District
Justice A. A. Birch Building
408 Second Avenue North, Suite 3110
Nashville, TN 37219

Phone: (615) 880-3712

Fax: (615) 880-3713

Term: 07/01/12 – 06/30/15 (1)

Appointed by: Gen Sessions Judges Conf

(Current/Former GS Judge – Middle)

Judge Timothy L. Easter

Circuit Court Judge
21st Judicial District
135 4th Avenue South, Ste. 264
Franklin, TN 37064

Phone: (615) 790-5426

Fax: (615) 790-4424

Term: 07/01/12 – 06/30/15 (1)

Appointed by: TN Jud Conf

(Current/Former Trial Judge – Middle)

Judge Joe F. Fowlkes

109 W. Madison Street
P.O. Box 677
Pulaski, TN 38478

Phone: (931) 363-6116

Fax: (931) 424-1707

Term: 07/01/12 – 06/30/15 (1)

Appointed by: Municipal Judges Conf

(Current/Former Municipal Ct Judge)

Robert T. ("Tas") Gardner, Esq.

176 Briarwood Street, Ste. A
Camden, TN 38320

Phone: (731) 584-3384

Fax: (731) 584-7938

Term: 07/01/12 – 06/30/15 (1)

Appointed by: Speaker of House

(Atty)

J. Ronald ("Ron") Hickman

8700 Trail Lake Drive West, Ste. 300
Memphis, TN 38125

Phone: (901) 346-8800

Fax: (901) 507-1184

Term: 07/01/12 – 06/30/15 (1)

Appointed by: Speaker of House

(Public Member)

Chris A. Hodges

1528 Coleman Road
Knoxville, TN 37909

Phone: (865) 637-0373

Fax: (865) 673-0188

Term: 07/01/12 – 06/30/15 (1)

Appointed by: Governor

(Public Member)

3 yr terms, 1 reappt permitted
Officer terms – 1 yr - per bd rule
* Not eligible for reappointment
Updated – 7/1/12

Board of Judicial Conduct

T.C.A. § 17-5-201

Chair: Judge Chris Craft

Vice Chair: Judge Timothy Easter

Secretary: Tom Lawless, Esq.

General Assembly Liaison: Judge Jeffrey Bivins

Judge Holly M. Kirby

Tennessee Court of Appeals
5050 Poplar Ave.
Memphis, TN 38157

Phone: (901) 685-3921

Fax: (901) 537-2998

Term: 07/01/12 – 06/30/15 (1)

Appointed by: Speaker of Senate

(Current/Former COA or CCA Judge from list of six recommended by TJC)

Thomas ("Tom") Lawless, Esq.

Lawless & Associates, P.C.
The Customs House
701 Broadway, Ste. 403
Nashville, TN 37203

Phone: (615) 351-7839

Fax: (615) 985-0900

Term: 07/01/12 - 06/30/15 (1)

Appointed by: Speaker of the Senate

(Atty)

Judge Christy R. Little

General Sessions Judge
26th Judicial District
P.O. Box 1504
110 Irby Street (38301)
Jackson, TN 38302

Phone: (731) 423-6073

Fax: (731) 423-0016

Term: 07/01/12 – 06/30/15 (1)

Appointed by: Gen Sessions Judges Conf

(Current/Former GS Judge – West)

Judge Larry J. Logan

General Sessions / Juvenile Court Judge
24th Judicial District
P.O. Box 336
McKenzie, TN 38201

Phone: (731) 986-1926

Fax: (731) 986-1930

Term: 07/01/12 – 06/30/15 (1)

Appointed by: Council of Juv/Family Ct Judges

(Current/Former Juv Ct Judge)

Judge J. Michael Sharp

Circuit Court Judge
10th Judicial District, Part II
Bradley County Courthouse, Ste. 207
155 North Ocoee Street
Cleveland, TN 37311

Phone: (423) 476-0537

Fax: (423) 479-0455

Term: 07/01/12 – 06/30/15 (1)

Appointed by: TN Jud Conf

(Current/Former Trial Judge – East)

Judge Dwight E. Stokes

General Sessions Court
4th Judicial District
Sevier County Courthouse
125 Court Avenue, Suite 109 West
Sevierville, TN 37862

Phone: (865) 908-2560

Fax: (865) 774-3602

Term: 07/01/12 – 06/30/15 (1)

Appointed by: Gen Sessions Judges Conf

(Current/Former GS Judge – East)

David Wedekind, Esq.

Hodges, Doughty & Carson
Of Counsel
617 Main Street
P.O. Box 869
Knoxville, TN 37901-0869

Phone: (865) 292-2307

Fax: (865) 292-2321

Term: 07/01/12 – 06/30/15 (1)

Appointed by: Governor

(Atty)

Board of Judicial Conduct

T.C.A. § 17-5-201

Chair: Judge Chris Craft

Vice Chair: Judge Timothy Easter

Secretary: Tom Lawless, Esq.

General Assembly Liaison: Judge Jeffrey Bivins

Disciplinary Counsel for Board of Judicial Conduct

Timothy R. Discenza

Disciplinary Counsel

P.O. Box 50356

Nashville, TN 37205

Phone: (615) 649-8851

Fax: N/A

Patrick J. McHale

Assistant Disciplinary Counsel

P.O. Box 50356

Nashville, TN 37205

Phone: (615) 925-2888

Fax: N/A

JUDICIAL PROGRAMS AND COMMISSIONS 302.20

Board of Judicial Conduct - COST CENTER 02

BUDGET INFORMATION

July1, 2011 through June 30, 2012

Target % Unexpended: 0%

Expenditure Description	2011-12 Appropriations	Year to Date Expenditures	Unexpended Balance	Percent Unexpended
Salaries (010)	\$0.00	\$0.00	\$0.00	0.00%
Longevity (012)	0.00	0.00	0.00	0.00%
Benefits (02)	0.00	0.00	0.00	0.00%
Payroll Expenditures	\$0.00	\$0.00	\$0.00	0.00%
Travel (03)	\$9,500.00	\$4,494.11	\$5,005.89	52.69%
Printing & Duplicating (04)	1,000.00	1,029.64	(29.64)	-2.96%
Utilities (05)	0.00	0.00	0.00	0.00%
Communications (06)	1,500.00	1,121.56	378.44	25.23%
Maintenance & Repairs (07)	0.00	0.00	0.00	0.00%
Professional Services (08)	259,900.00	243,744.46	16,155.54	6.22%
Supplies (09)	0.00	74.90	(74.90)	0.00%
Rentals & Insurance (10)	0.00	0.00	0.00	0.00%
Motor Vehicle Operations (11)	0.00	0.00	0.00	0.00%
Awards & Indemnities (12)	0.00	0.00	0.00	0.00%
Grants & Subsidies (13)	0.00	0.00	0.00	0.00%
Equipment (16)	0.00	0.00	0.00	0.00%
Training of State Employees (21)	0.00	683.00	(683.00)	0.00%
Computer Related Items (22)	0.00	0.00	0.00	0.00%
Professional Services-State (25)	100.00	0.00	100.00	100.00%
Retirement of Debt (32)	0.00	0.00	0.00	0.00%
Other Expenditures	\$272,000.00	\$251,147.67	\$20,852.33	7.67%
Total Expenditures	\$272,000.00	\$251,147.67	\$20,852.33	7.67%
Revenue Description	2011-12 Budget	Year to Date Collections	Over (Under) Collections	
Federal Revenue (801)	0.00	0.00	0.00	0.00%
Current Services (880)	0.00	0.00	0.00	0.00%
Inter-Departmental (890)	0.00	0.00	0.00	0.00%
Total Funding	\$0.00	\$0.00	\$0.00	0.00%

Comments:

This cost center reflects the expense of receiving and reviewing complaints against judges.

8/9/2013

JUDICIAL PROGRAMS AND COMMISSIONS 302.20

Board of Judicial Conduct - COST CENTER 02

BUDGET INFORMATION

July 1, 2012 through June 30, 2013

Target % Unexpended:

Expenditure Description	2012-13 Appropriations	Year to Date Expenditures	Unexpended Balance	Percent Unexpended
Salaries (010)	\$0.00	\$0.00	\$0.00	0.00%
Longevity (012)	0.00	0.00	0.00	0.00%
Benefits (02)	0.00	0.00	0.00	0.00%
Payroll Expenditures	\$0.00	\$0.00	\$0.00	0.00%
Travel (03)	\$9,500.00	\$2,739.75	\$6,760.25	71.16%
Printing & Duplicating (04)	1,000.00	303.92	696.08	69.61%
Utilities (05)	0.00	0.00	0.00	0.00%
Communications (06)	1,500.00	1,178.14	321.86	21.46%
Maintenance & Repairs (07)	0.00	0.00	0.00	0.00%
Professional Services (08)	259,900.00	237,773.35	22,126.65	8.51%
Supplies (09)	0.00	477.85	(477.85)	0.00%
Rentals & Insurance (10)	0.00	0.00	0.00	0.00%
Motor Vehicle Operations (11)	0.00	0.00	0.00	0.00%
Awards & Indemnities (12)	0.00	0.00	0.00	0.00%
Grants & Subsidies (13)	0.00	0.00	0.00	0.00%
Equipment (16)	0.00	0.00	0.00	0.00%
Training of State Employees (21)	0.00	404.00	(404.00)	0.00%
Computer Related Items (22)	0.00	50.00	(50.00)	0.00%
Professional Services-State (25)	100.00	0.00	100.00	100.00%
Retirement of Debt (32)	0.00	0.00	0.00	0.00%
Other Expenditures	\$272,000.00	\$242,927.01	\$29,072.99	10.69%
Total Expenditures	\$272,000.00	\$242,927.01	\$29,072.99	10.69%

Revenue Description	2012-13 Budget	Year to Date Collections	Over (Under) Collections	
Federal Revenue (801)	0.00	0.00	0.00	0.00%
Current Services (880)	0.00	0.00	0.00	0.00%
Inter-Departmental (890)	0.00	0.00	0.00	0.00%
Total Funding	\$0.00	\$0.00	\$0.00	0.00%

Comments:

This cost center reflects the expense of receiving and reviewing complaints against judges.

RULES OF PRACTICE AND PROCEDURE OF THE BOARD OF JUDICIAL CONDUCT

(as approved by the Board on August 22, 2012)

Rule 1. Meetings.

Sec. 1. Time and Place of Meeting

The Board shall meet at 10:00 o'clock a.m. on the fourth (4th) Wednesday in February and the fourth (4th) Wednesday in August in the conference room of the Administrative Office of the Courts and at such other times and places as the chairperson, or a majority of the members of the Board, may deem necessary. Members finding it more convenient may also attend the meeting by video or phone conference.

Sec. 2. Notice of Meeting

The chairperson of the Board shall give a minimum of ten (10) days' notice of the time and place of meetings to all members of the Board.

Sec. 3. Quorum

Eight (8) members of the Board, whether meeting in person or by video or phone conference, shall constitute a quorum.

Rule 2. Chairperson of the Board.

Sec. 1. Chairperson

The Board, at its meeting on the fourth (4th) Wednesday in August of each year, shall elect a chairperson to serve for a period of one (1) year. The chairperson shall be elected from the members of the Board by a majority present and voting. The chairperson may be removed by a two-thirds vote of the members of the Board, with or without cause.

Sec. 2. Vice-chair

The Board, at its meeting on the fourth (4th) Wednesday in August of each year, shall elect a vice-chair to serve for a period of one (1) year. The vice-chair shall be elected from the members of the Board by a majority present and voting. The vice-chair may be

removed by a two-thirds vote of the members of the Board, with or without cause.

If at any meeting the chairperson is not present, the vice-chair shall preside. If the chairperson is recused with respect to a matter, the vice-chair shall act as chairperson with respect to such matter.

Sec. 3. Chairperson — Duties.

In addition to the duties and responsibilities set forth in Tenn. Code Ann title 17, chapter 5, the chairperson shall preside at all meetings of the Board and at trials. The chairperson shall rule upon the admission or exclusion of evidence. However, the chairperson's ruling upon the admission or exclusion of evidence may be appealed to the full hearing panel. The chairperson and only the chairperson shall be the spokesperson for all matters pending before the Board, except that if the chairperson is recused with respect to a matter pending before the Board, the vice-chair and only the vice-chair shall be the spokesperson for the Board with respect to such matter. After the trial of any matter the chairperson shall write or shall designate a member of the hearing panel that heard the matter to write the majority opinion. Any member of the hearing panel that heard the matter may write a concurring or dissenting opinion. The chairperson shall have such other duties and responsibilities as are necessary in fulfilling the office.

Rule 3: Panels: Recusal and Replacement

(a) Hearing Panel. The chairperson shall divide the members of the Board into three hearing panels of six (6) members each (some members of the Board to be included as members of more than one hearing panel out of necessity), in such a way that each panel is composed of at least one judge, attorney and public member, if possible. The first panel shall be composed of six (6) members who do not reside in the eastern grand division, the second panel shall be composed of six (6) members who do not reside in the middle grand division, and the third panel shall be composed of six (6) members who do not reside in the western grand division. Upon the filing of formal charges, the chairperson shall assign to that matter, for the purpose of hearing pre-trial motions, approving or rejecting offers of settlement, or rendering a verdict after trial, the panel whose members do not reside in the grand division in which the accused judge resides. If a member of

that hearing panel is recused from the hearing of that matter, either because that member served on the investigative panel for that complaint, cannot be present for the hearing, was an attorney who has personally appeared before that judge or has recused for personal reasons, then the chairperson shall designate a temporary replacement by an order signed by a majority of the members of the hearing panel for the matter. The temporary replacement shall not be limited to members of the Board or persons residing outside the grand division in which the judge resides. However, in making such temporary designation, due regard will be given to the status of the member replaced, to the end that the contemplated composition and balance of the hearing panel for the matter be maintained.

(b) Investigative Panel. If a member of an investigative panel is recused from the hearing of any matter, then the chairperson shall designate a temporary replacement by an order signed by the chairperson. In making such temporary designation, due regard will be given to the status of the recusing member to the end that the contemplated composition and balance of the investigative panel for the matter be maintained.

(c) Special Investigative Panel. The chairperson shall appoint a standing special investigative panel to handle complaints made against judges who are current members of the Board. The members of this special panel shall not be current members of the Board and their names shall not be made known to the members of the Board. Any complaint filed against the chairperson shall be handled by a special panel appointed by the vice-chair.

Rule 4: Disciplinary Counsel

Sec. 1. Hiring.

The appointment or retention of disciplinary counsel shall be made only by a majority of the Board. However, the chairperson or one or more members of the Board designated by the chairperson may handle preliminary matters relating to hiring disciplinary counsel, including, but not limited to, advertising the position, receiving and reviewing resumes, screening applicants and conducting interviews.

Rule 5: Complaints & Responses

Section 1. Written Complaints

Complaints should be reduced to writing and sworn to before a notary public or by an officer authorized to administer oaths under Tennessee law. Complaints must state with reasonable particularity the factual basis of the complaint. Complaints are filed with Disciplinary Counsel at an address designated by the Board and posted on its website.

Section 2. Other Sources

Disciplinary Counsel is authorized to investigate anonymous complaints or information coming from sources other than a written complaint, provided Disciplinary Counsel deems the information sufficiently credible or verifiable through objective sources.

Section 3. Judge's Response to be in Writing

A judge's response to an initial complaint is to be reduced to writing but is not required to be under oath. Responses filed by others on behalf of the judge are to be reduced to writing and sworn to before a Notary Public or by an officer authorized to administer an oath under Tennessee law. The judge's response is to be filed with Disciplinary Counsel.

Rule 6: Investigative Panels

Sec. 1. Designation of Investigative Panels

The chairperson shall designate such investigative panels as in the chairperson's discretion are necessary to the efficient operation of the Board . Each investigative panel shall be comprised of three members of the Board, and a member may serve on more than one investigative panel. The chairperson shall not serve as a member of any investigative panel. In appointing the investigative panels, the chairperson shall give due consideration to the composition of each panel so that to the extent feasible, public members, practicing attorneys and judges of various courts are represented on each panel. Each of the members of the various investigative panels may be from the same geographic region of the State so as to promote communication and meetings among panel members. The chairperson may designate alternate members to serve on investigative panels in the

event that a member of an investigative panel is recused from considering a particular matter.

Sec. 2 . Meetings of Investigative Panels

(a) Meetings of Investigative Panels. Promptly upon receipt of a complaint, report and recommendations from the disciplinary counsel, the investigative panel shall review the matter. The meeting may be conducted in person, by telephone conference call or by e-mail, provided that if the meeting is conducted by telephone conference call, every member of the panel must be able to hear and to speak to every other member of the panel.

(b) Initial Review of Complaint. Upon receipt of a complaint or file from the disciplinary counsel, an investigative panel shall review the matter and shall either:

- (i) authorize a full investigation;
- (ii) give further instructions to Disciplinary Counsel; or
- (iii) dismiss the complaint.

(c) Review after Full Investigation. When an investigative panel has authorized a full investigation of a complaint or matter, then promptly upon its receipt of the disciplinary counsel's report of the investigation and recommendation, the investigative panel shall review the report and recommendations and shall either:

- (i) approve the recommendations of disciplinary counsel;
- (ii) modify the recommendations of disciplinary counsel; or
- (iii) disapprove the recommendations of disciplinary counsel.

(d) Action of Investigative Panel After Investigation. After investigation and upon determining that there is probable cause to believe that a judge has committed a judicial offense, the investigative panel shall either:

- (i) direct disciplinary counsel to file formal charges against the judge; or
- (ii) direct disciplinary counsel to attempt settlement upon a stated sanction approved by the investigative panel.

In the event the judge does not consent to a sanction agreed upon by the investigative panel, then the investigative panel shall direct disciplinary counsel to file formal charges

against the judge.

Sec. 3 . Frivolous or Unfounded Complaints

In the event the investigative panel determines that the charges are frivolous or unfounded, or would not constitute misconduct or incapacity if true, or are beyond the permissible scope of the Board's inquiry, the investigative panel shall dismiss the charges. The matter will then be closed, and the Board's docket will recite the investigation and dismissal of a groundless complaint.

Sec. 4 . Formal Charges

If an investigative panel determines that there is reasonable cause to believe that a judge committed a judicial offense and the investigative panel directs that disciplinary counsel file a formal charge as provided in Tenn. Code Ann. § 17-5-304(e), then prior to the filing of the formal charge the investigative panel shall review and approve the form and content of such formal charge. Such formal charge shall be signed by disciplinary counsel and the members of the investigative panel who directed that the formal charge be filed.

Sec. 5 . Consensus by Investigative Panels.

In the event that the members of an investigative panel are not able to reach a consensus after due consideration by meeting in person, via a conference call in which every member of the panel can hear and speak to every other member of the panel, or by e-mail, then the investigative panel may act upon the concurrence of two of its three members. In the event that no two members of an investigative panel concur in the decision, then the chairperson shall direct that the matter be assigned to another investigative panel for consideration. In the event the second investigative panel recommends the filing of formal charges, no member of either the first investigative panel or the second investigative panel shall serve on the hearing panel for such matter.

Rule 7: Sanctions

Sec. 1. Hearing Panel —Sanctions Consented by Judge.

If a judge consents to a sanction as provided for in Tenn. Code Ann. § 17-5-307(g), and the hearing panel approves the sanction agreement, then the sanction agreement shall be

reduced to writing and shall be approved by the judge, the judge's counsel (if any), disciplinary counsel and the hearing panel, and the sanction order shall be entered by the chairperson. Because a hearing panel may act only after formal charges have been filed against a judge, all sanctions administered by a hearing panel shall be public, whether or not the judge has consented to the sanctions.

Sec. 2. Investigative Panel — Sanctions by consent.

If a judge, with the unanimous concurrence of the investigative panel , consents to a stated sanction before formal charges are filed, then the agreement shall be reduced to writing. The written agreement shall specify the nature of the behavior that resulted in the sanction. Private sanctions shall be confidential, and shall be given to the judge; a copy shall be retained in the files of the Board and may be used or released only as allowed in Tenn. Code Ann. § 17-5-301(f)(3).

Rule 8: Confidentiality

Except for hearings conducted pursuant to Tenn. Code Ann. § 17-5-308 or sanctions required to be public, matters that come before the Board are confidential. Individual members of the Board will not discuss any matter pending before the Board, except with other members of the Board and with Disciplinary Counsel. However, nothing in the Rule shall prohibit the complainant, respondent-judge, or any witness from disclosing the existence or substance of a complaint, matter, investigation, or proceeding under these Rules or from disclosing any documents or correspondence filed by, served on, or provided to that person. In addition, if it becomes apparent that allegations of misconduct by a judge have become a matter of public record independent of any action by the Board and that continued silence by the Board may be detrimental to the public interest, may lead to bringing the judiciary into public disrepute or may adversely affect the administration of justice, the chairperson in his or her discretion may 1) confirm that an investigation is in progress, 2) clarify the procedural aspect of any proceedings, and 3) explain the rights of the subject of the investigation to a fair hearing without prejudgment.

Rule 9: Amendment of Rules

These rules may be amended from time to time by a majority of the members of the Board present and voting at any meeting, such amendments to take effect at such time as approved by the general assembly in accordance with the procedures set forth in Tenn. Code Ann. § 16-3-404 for rules of court.

Rule 10: Records Retention Policy

When a complaint is received from an outside source or is created internally, both a physical and an electronic file shall be created. The physical file shall contain the complaint and all relevant documentation and correspondence pertaining to the complaint. Relevant portions of all complaints and documentation, including correspondence, shall be scanned and maintained in the electronic file. Correspondence generated by the office to either the complainant or the subject judge shall also be maintained in an electronic file by copying to the electronic file the correspondence in word processing format without the necessity of scanning the printed letterhead document. Voluminous public records such as transcripts, court dockets or pleadings filed in any court which are retrievable by other means need not be scanned into the electronic file. Disciplinary Counsel shall maintain a backup copy of all electronic files that shall be backed up daily and kept on storage media apart from the computer internal hard drive. A physical file may be destroyed by an appropriately secure method such as commercial shredding no sooner than one year after the closing and final action taken on that file, but the electronic file shall never be destroyed, regardless of the disposition of the case.

BOARD OF JUDICIAL CONDUCT
FISCAL YEAR 2012-2013 FOURTH QUARTERLY REPORT
(For the period 4/1/13 through 6/30/13)
Due 9/20/13

The number of complaints OPENED¹ this quarter is 91. Year to date the number is 373.

The number of complaints CLOSED this quarter is 97. Year to date the number is 350.

The DISPOSITION of the complaints closed this quarter is:

	YTD (Year to Date)
Dismissed, complaint about court ruling----	60
Dismissed, no jurisdiction -----	3
Dismissed, inadequate factual basis -----	20
Dismissal with warning -----	6
Dismissal after full investigation -----	0
Deferred discipline agreement -----	0
Private reprimand -----	2
Private censure -----	0
Public reprimand -----	4
Public censure -----	1
Other -----	0
Retired complaint, no longer a judge -----	1
Suspension -----	0
Recommendation of removal from office --	0
TOTAL	97
	350

The number of complaints PENDING on the last day of this quarter is 57.

The number of complaints for which PROBABLE CAUSE WAS FOUND² this quarter is 3.
The number year to date is 20.

The number of complaints for which FORMAL CHARGES WERE FILED this quarter is 1.
The number year to date is 1.

1. A single complaint naming several judges is counted as a separate complaint against each judge. A complaint whose allegations encompass more than one category is listed under the most serious category alleged.

2. "Probable cause was found" means that Disciplinary Counsel and the investigative panel believe that there is evidence supporting the allegations against a judge and the investigative panel has authorized a full investigation pursuant to Tenn. Code Ann. ' 17-5-304 (c)(3).

The NATURE of the complaints filed and the TYPE OF JUDGE according to the following categories is:

A) Failure to comply with the law:		<u>YTD</u>
Criminal -----	20	74
Circuit -----	17	50
Chancery -----	2	21
General Sessions -----	13	63
Juvenile -----	0	5
Magistrate and Referee-----	9	17
Municipal -----	1	5
Commissioner -----	0	3
Probate -----	0	3
Appellate Court -----	1	1
Senior and Retired -----	1	3
Other -----	1	8
TOTAL	65	253 (Non-judge, deceased judge, judge from another state, etc.)

B) Bias, prejudice and unfairness:		<u>YTD</u>
Criminal -----	1	6
Circuit -----	1	6
Chancery -----	1	4
General Sessions -----	3	10
Juvenile -----	0	3
Magistrate and Referee-----	0	4
Municipal -----	0	0
Commissioner -----	0	0
Probate -----	0	0
Appellate Court -----	0	0
Senior and Retired -----	0	0
Other -----	0	0
TOTAL	6	33

C) Discourtesy:		<u>YTD</u>
Criminal -----	3	4
Circuit -----	2	3
Chancery -----	0	0
General Sessions -----	1	4
Juvenile -----	0	0
Magistrate and Referee-----	2	3
Municipal -----	1	2
Commissioner -----	0	0
Probate -----	0	1
Appellate Court -----	0	0
Senior and Retired -----	0	0
Other -----	0	0
TOTAL	9	17

D) Abuse of office:		<u>YTD</u>
Criminal -----	0	0
Circuit -----	0	5
Chancery -----	0	0
General Sessions -----	1	9
Juvenile -----	0	0
Magistrate and Referee----	0	1
Municipal -----	0	0
Commissioner -----	0	0
Probate -----	0	0
Appellate Court -----	0	1
Senior and Retired -----	0	1
Other -----	0	0
TOTAL	1	17

E) Delay:		<u>YTD</u>
Criminal -----	3	9
Circuit -----	1	2
Chancery -----	0	1
General Sessions -----	1	4
Juvenile -----	0	0
Magistrate and Referee----	0	0
Municipal -----	0	0
Commissioner -----	0	0
Probate -----	0	0
Appellate Court -----	0	0
Senior and Retired -----	0	0
Other -----	0	0
TOTAL	5	16

F) Ex parte communications:		<u>YTD</u>
Criminal -----	0	1
Circuit -----	0	0
Chancery -----	0	1
General Sessions -----	2	5
Juvenile -----	0	0
Magistrate and Referee----	1	2
Municipal -----	0	0
Commissioner -----	0	0
Probate -----	0	0
Appellate Court -----	0	0
Senior and Retired -----	0	0
Other -----	0	1
TOTAL	3	10

G) Disability:		<u>YTD</u>
Criminal -----	0	2
Circuit -----	0	0
Chancery -----	0	0
General Sessions -----	0	1
Juvenile -----	0	0
Magistrate and Referee----	0	0
Municipal -----	0	1
Commissioner -----	0	0
Probate -----	0	0
Appellate Court -----	0	0
Senior and Retired -----	0	0
Other -----	0	0
TOTAL	0	4

H) Political violation:		<u>YTD</u>
Criminal -----	0	0
Circuit -----	0	1
Chancery -----	0	2
General Sessions -----	0	0
Juvenile -----	0	0
Magistrate and Referee----	0	0
Municipal -----	0	1
Commissioner -----	0	0
Probate -----	0	0
Appellate Court -----	0	0
Senior and Retired -----	0	0
Other -----	1	1
TOTAL	1	5

I) Recusal:		<u>YTD</u>
Criminal -----	0	3
Circuit -----	0	3
Chancery -----	1	2
General Sessions -----	1	10
Juvenile -----	0	0
Magistrate and Referee----	0	0
Municipal -----	0	0
Commissioner -----	0	0
Probate -----	0	0
Appellate Court -----	0	0
Senior and Retired -----	0	0
Other -----	0	0
TOTAL	2	18

J) Miscellaneous:		<u>YTD</u>
Criminal -----	0	0
Circuit -----	0	0
Chancery -----	0	0
General Sessions -----	0	0
Juvenile -----	0	0
Magistrate and Referee-----	0	0
Municipal -----	0	0
Commissioner -----	0	0
Probate -----	0	0
Appellate Court -----	0	0
Senior and Retired -----	0	0
Other -----	0	0
TOTAL	0	1

Respectfully submitted,

CHRIS CRAFT, Board Chair
BOARD OF JUDICIAL CONDUCT



THE TENNESSEE BOARD OF JUDICIAL CONDUCT

511 Union Street
Suite 600
Nashville, TN 37219

April 11, 2013

Michael W. Catalano, Clerk
100 Supreme Court Building
401 Seventh Avenue, North
Nashville, TN 37219-1407
615-253-1470

MEMBERS OF THE TENNESSEE BOARD OF JUDICIAL CONDUCT

Chris Craft
Chairperson

Timothy R. Disenza
Disciplinary Counsel

Patrick J. McHale
Assistant Disciplinary Counsel

Jeffrey S. Bivins
Miles Burdine
Angelita B. Dalton
Timothy L. Easter
Joe E. Fowlkes
Tas Gardner
J. Ronald Hickman
Chris A. Hodges
Holly Kirby
Thomas W. Lawless
Christy R. Little
Larry J. Logan
J. Michael Sharp
Dwight E. Stokes
David Wedekind

The Honorable Ron Ramsey
Lt. Governor and Senate Speaker
1 Legislative Plaza
Nashville, TN 37243-0219

The Honorable Beth Harwell
Speaker of the House
301 6th Avenue North
Suite 19 Legislative Plaza
Nashville, TN 37243

Dear Speakers of the Senate and House:

As Chairperson of the Board of Judicial Conduct, I am sending you notice of the following public judicial discipline pursuant to Tenn. Code Ann. § 17-5-208, which states as follows:

17-5-208. Notice reporting reprimands to speakers of the senate and house of representatives — Notice a public record.

(a) The chair of the board shall immediately provide the speaker of the senate and the speaker of the house of representatives with the name, type of judge, judicial district, if applicable, the reason for the reprimand and the number of previous reprimands each time any of the following events occur:

(1) A judge receives a second or subsequent public reprimand for conduct occurring during the entire period of time the person is a sitting judge;

.....

(b) (1) The notice provided the speakers pursuant to subdivision (a)(1) shall be a public record.

On this date I have issued on behalf of the Board a public reprimand to Judge James McKenzie, Rhea County General Sessions Judge in the Twelfth Judicial District. The reason for the reprimand is contained in the language of the reprimand itself, which is attached. He received one prior public reprimand during the years he has been a sitting judge, which was issued on December 3, 2010.

This prior public reprimand may be accessed through the Board of Judicial Conduct's website at <http://www.tncourts.gov/boards-commissions/court-judiciary/disciplinary-actions>.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Craft", with a stylized flourish at the end.

CHRIS CRAFT
Board Chair

CC/bep



THE TENNESSEE BOARD OF JUDICIAL CONDUCT

511 Union Street
Suite 600
Nashville, TN 37219

April 11, 2013

Michael W. Catalano, Clerk
100 Supreme Court Building
401 Seventh Avenue, North
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615-253-1470

MEMBERS OF THE TENNESSEE
BOARD OF JUDICIAL CONDUCT

FOR PUBLIC RELEASE

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Christy R. Little
Larry J. Logan
J. Michael Sharp
Dwight E. Stokes
David Wedekind

The Honorable James McKenzie
1475 Market Street, Room 101
Rhea County Courthouse
Dayton, Tennessee 37321

RE: Complaints in File Nos. B12-5167, B13-5219, and B13-5220

Dear Judge McKenzie:

This letter shall serve as a public reprimand pursuant to your agreement with an investigative panel of the Board of Judicial Conduct relating to Cases B13-5167, B13-5219 and B13-5220.

Case B13-5167 concerns your conduct while on the Bench on December 18, 2012, in which you made a comment concerning your belief that one of the attorneys who appears in your court must be having a sexual relationship with another attorney who appears before you. This was said in such a manner that other attorneys who were in your court on that day heard it. Upon being confronted by one of the attorneys about whom the comment was made, you apologized to that attorney and on the next day, called the other attorney into your chambers and apologized to that attorney and told them that such conduct would not occur again. Both of the attorneys perceived that you were sincere in your apology.

Cases B13-5219 and B13-5220 basically concern the same incident which took place on November 20, 2012. On that date you approached the spouse of a Court employee who had taken a leave of absence and whom you perceived had a personal issue with you. This spouse and you were in the presence of a number of other individuals who worked with the spouse. At this time, you used inappropriate language in inquiring about the Court employee's potential problem.

This was done in an abrasive manner and was noted by other persons present during the conversation. This was not done in Court or in an official setting.

Your actions in the above matters constituted a violation of Canon 1 of the Code of Judicial Conduct as set forth in Rule 10 of the Rules of the Supreme Court of Tennessee, which provides:

CANON 1 — A JUDGE SHALL UPHOLD AND PROMOTE THE INDEPENDENCE, INTEGRITY, AND IMPARTIALITY OF THE JUDICIARY, AND SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY.

Your actions specifically violated Rule 1.2 of said Canon which provides:

RULE 1.2 Promoting Confidence in the Judiciary

A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

Your conduct in addition violated the provisions of Tennessee Code Annotated Section 17-5-301(g)(2) in that this conduct "*detrimentially affects the integrity of the Judiciary.*"

Accordingly, this letter constitutes a Public Reprimand for your actions in the above cases.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Craft", with a stylized flourish extending from the end.

Chris Craft
Board Chair

CC/bep